

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
402(a)	37:251(a) (1st sentence).	Oct. 12, 1949, ch. 681, § 301, 63 Stat. 812; May 19, 1952, ch. 310, § 1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, § 20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85-861, § 10, 72 Stat. 1556.
402(b)	37:251(a) (2d and last sentences). 37:251(b). 37:251(c).	Oct. 12, 1949, ch. 681, § 301, 63 Stat. 812; May 19, 1952, ch. 310, § 1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, § 20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85-861, § 10, 72 Stat. 1556.
	37:251a.	Aug. 1, 1953, ch. 305, § 617, 67 Stat. 352.
	37:301(a) (45 words before proviso).	Oct. 12, 1949, ch. 681, § 501(a) (45 words before proviso), (e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay), 63 Stat. 825, 827; July 9, 1952, ch. 608, § 244, 66 Stat. 494; June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282.
	37:301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay).	
402(c)	37:251(a) (less 1st, 2d, and last sentences).	
402(d)	37:251(e).	
402(e)	37:251(f).	
402(f)	37:251(d).	

In subsection (a), the words “in the amount set forth in subsection (d)” are substituted for the words “in such amounts . . . as are provided in this section”.

In subsection (b), the words “on a daily basis” are substituted for the last sentence of section 251(a) of existing title 37. The words “United States” are substituted for the word “Government”, in the 2d sentence of section 251(a) of existing title 37, section 251(b) of existing title 37, and section 251(e) of existing title 37. The word “confined” is substituted for the word “sick” for clarity. The last 16 words of the third sentence are substituted for section 251(b) (proviso) of existing title 37. The fourth sentence is substituted for section 251(a) of existing title 37. The last sentence is substituted for section 301(a) (45 words before proviso) of existing title 37 and section 301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). In that sentence, the words “of a reserve component of a uniformed service, or of the National Guard” are substituted for the enumeration of the organizations concerned.

In subsection (c), the words “who are entitled to basic pay” are inserted to reflect the 1st sentence of section 251(a) of existing title 37.

In subsection (d), the reference in section 251(a) of existing title 37 to the allowance of \$1.05 per day for enlisted members granted permission to mess separately is omitted as superseded by section 251a.

In subsection (e), the words “Effective April 15, 1955,” are omitted as executed. The words “United States” are substituted for the word “Government”. The words “messing facilities” are substituted for the word “messes” to conform to subsections (b) and (d).

AMENDMENTS

1991—Subsec. (e). Pub. L. 102-25 struck out “of this section” after “subsection (b)” in pars. (1) and (2).

1985—Subsec. (b). Pub. L. 99-145 inserted “or as otherwise prescribed by law” after “title” at end of fourth sentence.

1984—Subsec. (b). Pub. L. 98-525 inserted “The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”

Subsec. (d). Pub. L. 98-557 inserted provisions relating to Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

1983—Subsec. (e). Pub. L. 98-94 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b). Pub. L. 96-513, § 411(a), inserted provisions authorizing an allowance while performing travel under orders, and struck out provisions prohibiting an allowance while being subsisted at the expense of United States.

Subsec. (e). Pub. L. 96-513, § 411(b), inserted reference to definitions of “field duty” and “sea duty”.

1974—Subsec. (a). Pub. L. 93-419, § 3(1), struck out “this section or by another” after “otherwise provided by” and substituted “as set forth in this section” for “in the amount set forth in subsection (d) of this section”.

Subsec. (b). Pub. L. 93-419, § 3(2), substituted provisions for allowance for enlisted members authorized to receive basic allowance for subsistence under this subsection by reference to section 1009 of this title for provisions for allowance for enlisted members on leave or were authorized to mess separately at an amount equal to the cost of ration to be determined by the Secretary of Defense.

Subsec. (c). Pub. L. 93-419, § 3(3), inserted reference to section 1009 of this title in provisions relating to the amount of basic allowance for subsistence.

Subsecs. (d) to (f). Pub. L. 93-419, § 3(4), (5), struck out subsec. (d) which related to basic allowance for subsistence for members of the uniformed services, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1966—Subsec. (c). Pub. L. 89-444 extended to aviation cadets of the Coast Guard the entitlement to the same basic allowance for subsistence as is provided for an officer of the Coast Guard.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 605 of Pub. L. 98-525 provided that the amendment made by that section is effective Oct. 1, 1984.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 411 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Pub. L. 96-343, § 7, Sept. 8, 1980, 94 Stat. 1128, provided that: “Effective September 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Sept. 8, 1980] (as prescribed by the President under section 1009 of such title), are increased by 10 percent.”

REGULATIONS RELATING TO SUBSISTENCE ALLOWANCE

Regulations relating to basic allowance for subsistence, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

EXECUTIVE ORDER NO. 10119

Ex. Ord. No. 10119, Mar. 30, 1950, 15 F.R. 1767, as amended by 1953 Reorg. Plan No. 1, §§ 5, 8, Apr. 11, 1953, 18 F.R. 2053; Ex. Ord. No. 10605, Apr. 22, 1955, 20 F.R. 2747, which related to regulations governing basic allowance for subsistence, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Aviation cadets, allowances, pensions, gratuities, and other benefits, see section 6912 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404, 420, 1003, 1009, 1012 of this title; title 10 section 6912; title 14 section 372; title 32 section 107.

§ 403. Basic allowance for quarters

(a)(1) Except as otherwise provided by law, a member of a uniformed service who is entitled

to basic pay is entitled to a basic allowance for quarters at the monthly rates prescribed in accordance with section 1009 of this title or as otherwise prescribed by law, according to the pay grade in which he is assigned or distributed for basic pay purposes. The allowance authorized by this section may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for quarters as a member with dependents unless the member makes an annual certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be made in accordance with regulations prescribed by the Secretary of Defense.

(b) Except as otherwise provided by law, a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade, rank, or rating and adequate for himself, and his dependents, if with dependents, is not entitled to a basic allowance for quarters. However, subject to the provisions of subsection (j), a member without dependents who is in a pay grade above pay grade E-6 and who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade or rank and adequate for himself, may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade by this section.

(c)(1) A member of a uniformed service without dependents who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for quarters while on that initial field duty unless his commanding officer certifies that the member was necessarily required to procure quarters at his expense.

(2) A member of a uniformed service without dependents who is in a pay grade below pay grade E-7 is not entitled to a basic allowance for quarters while he is on sea duty. A member of a uniformed service without dependents who is in a pay grade above E-6 who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting.

(d)(1) A member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may not be denied the basic allowance for quarters if, because of orders of competent authority, his dependents are prevented from occupying those quarters.

(2) A member of a reserve component without dependents who is called or ordered to active duty in support of a contingency operation (other than a member who is authorized transportation of household goods under section 406 of this title as part of that call or order) may not be denied a basic allowance for quarters if, because of that call or order, the member is unable to continue to occupy a residence—

(A) which is maintained as the primary residence of the member at the time of the call or order; and

(B) which is owned by the member or for which the member is responsible for rental payments.

(e) Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents of the National Oceanic and Atmospheric Administration and the Public Health Service), a member of a uniformed service, and his dependents, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to and occupancy without charge by such a member, and his dependents, if any. Such a member may not, because of his occupancy under this subsection, be deprived of any money allowance to which he is otherwise entitled for the rental of quarters.

(f) A member of a uniformed service without dependents who is in pay grade E-4 (four or more years' service), or above, is entitled to a basic allowance for quarters while he is in a travel or leave status between permanent duty stations, including time granted as delay enroute or proceed time, when he is not assigned to quarters of the United States.

(g) An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to the same basic allowance for quarters as a member of the uniformed services in pay grade E-4.

(h) The Secretary concerned, or his designee, may make any determination necessary to administer this section with regard to enlisted members, including determinations of dependency and relationship, and may, when warranted by the circumstances, reconsider and change or modify any such determination. This authority may be redelegated by the Secretary concerned or his designee. Any determination made under this section with regard to enlisted members is final and is not subject to review by any accounting officer of the United States or a court, unless there is fraud or gross negligence.

(i) Notwithstanding any other provision of law, the basic allowance for quarters to which an enlisted member may be entitled as a member with dependents shall not, for such period as the Secretary concerned may prescribe, be contingent on the right of such member to receive pay.

(j)(1) The Secretary of Defense shall prescribe regulations for the administration of this section, including definitions of the terms "field duty" and "sea duty".

(2) The Secretary concerned may deny the right to make an election under subsection (b) if he determines that the exercise of such an election would adversely affect a training mission, military discipline, or military readiness.

(k) Parking facilities (including utility connections) provided members of the uniformed services for house trailers and mobile homes not owned by the Government shall not be considered to be quarters for the purposes of this section or any other provision of law. Any fee es-

tablished by the Government for the use of such a facility shall be established in an amount sufficient to cover the cost of maintenance, services, and utilities and to amortize the cost of construction of the facility over the 25-year period beginning with the completion of such construction.

(l)(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 180 days.

(2) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date, or whose dependents vacate such housing sooner than 180 days after the date of the member's death. The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate 180 days after the date of the member's death.

(m)(1) Except as provided in paragraph (2), in the case of a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service and who is authorized a basic allowance for quarters solely by reason of the member's payment of child support, the amount of the basic allowance for quarters to which the member is entitled shall be equal to the difference between the basic allowance for quarters applicable to the member's grade, rank, or rating at the with-dependent rate and the applicable basic allowance for quarters at the without-dependent rate.

(2) A member of a uniformed service shall not be entitled to a basic allowance for quarters solely by reason of the payment of child support if the monthly rate of that child support is less than the amount of the basic allowance for quarters computed for the member under paragraph (1).

(3) The application of this subsection to a member of a uniformed service shall not affect the entitlement of that member to a basic allowance for quarters at a partial rate under section 1009(c) of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 88-132, §10, Oct. 2, 1963, 77 Stat. 216; Pub. L. 89-718, §§49(a)(1), 54, Nov. 2, 1966, 80 Stat. 1121, 1122; Pub. L. 90-207, §1(3), Dec. 16, 1967, 81 Stat. 651; Pub. L. 92-129, title II, §204, Sept. 28, 1971, 85 Stat. 358; Pub. L. 93-64, title I, §105, July 9, 1973, 87 Stat. 148; Pub. L. 93-419, §3(6), Sept. 19, 1974,

88 Stat. 1152; Pub. L. 96-343, §4(a)(1), (2), Sept. 8, 1980, 94 Stat. 1125; Pub. L. 96-513, title V, §516(10), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, §§6(a)-(c), 7, Dec. 23, 1980, 94 Stat. 3367, 3368; Pub. L. 97-22, §11(b)(2), July 10, 1981, 95 Stat. 138; Pub. L. 98-94, title IX, §907(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §§602(c), 604(a), Oct. 19, 1984, 98 Stat. 2534, 2537; Pub. L. 99-145, title VI, §§604(a), 605(a), title VIII, §809(b), title XIII, §1303(b)(6), Nov. 8, 1985, 99 Stat. 638, 681, 740; Pub. L. 99-227, §1, Dec. 28, 1985, 99 Stat. 1745; Pub. L. 100-26, §8(d)(5), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§602(a), 604(a), 632(a), Dec. 5, 1991, 105 Stat. 1373, 1374, 1380; Pub. L. 103-337, div. A, title VI, §604(a), (b), Oct. 5, 1994, 108 Stat. 2782.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
403(a)	37:252(a). 37:252(f).	Oct. 12, 1949, ch. 681, §302(a)-(f), 63 Stat. 812; May 19, 1952, ch. 310, §1(b), (c), 66 Stat. 79; May 20, 1958, Pub. L. 85-422, §1(9), 72 Stat. 127.
403(b)	37:252(b).	
403(c)	37:252(c).	
403(d)	37:252(d).	
403(e)	37:111a.	July 2, 1945, ch. 227, 59 Stat. 316.
403(f)	37:320.	June 29, 1950, ch. 405, §102, 64 Stat. 288.
403(g)	37:252(e).	

In subsection (a), the words "at the following monthly rates" are substituted for the words "in such amount and under such circumstances as are provided in this section". Section 252(f) (words before table) of existing title 37 is omitted as surplusage.

In subsections (b), (d), and (e), the words "United States" are substituted for the word "Government".

In subsection (c), the words "a period" are substituted for the words "temporary periods".

In subsection (e), the words "member" and "members" are substituted for the word "personnel".

In subsection (f), the words "may be used" are substituted for the words "shall be available". The words "for any periods after June 29, 1950," are omitted as executed. The words "(as defined in sections 231(g) and 252 of this title)" are omitted as covered by section 401 of this revised title.

In subsection (g), the word "including" is substituted for the words "and such regulations shall include, but not be limited to".

AMENDMENTS

1994—Subsec. (l). Pub. L. 103-337 substituted "180 days" for "90 days" wherever appearing.

1991—Subsec. (a). Pub. L. 102-190, §604(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (j)".

Subsec. (d). Pub. L. 102-190, §632(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (j)(1). Pub. L. 102-190, §604(a)(2), substituted "Secretary of Defense shall" for "President may".

Subsec. (j)(2). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (b)".

Subsec. (m). Pub. L. 102-190, §602(a), added subsec. (m).

1987—Subsec. (l)(1). Pub. L. 100-26 substituted "armed forces" for "Armed Forces".

1985—Subsec. (a). Pub. L. 99-145, §1303(b)(6), inserted "or as otherwise prescribed by law" after "of this title".

Pub. L. 99-145, §604(a), inserted provision permitting the allowance authorized by this section to be paid in advance.

Subsec. (c)(1). Pub. L. 99-145, §605(a)(1), substituted “who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for quarters while on that initial field duty” for “is not entitled to a basic allowance for quarters while he is on field duty”.

Subsec. (c)(2). Pub. L. 99-145, §605(a)(2), substituted “who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting” for “and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days”.

Subsec. (c)(3). Pub. L. 99-145, §605(a)(3), struck out par. (3) which provided that for purposes of this subsection, duty for a period of less than three months was not considered to be field duty or sea duty.

Subsec. (k). Pub. L. 99-145, §809(b), substituted “25-year period” for “15-year period”.

Subsec. (l). Pub. L. 99-227 added subsec. (l).

1984—Pub. L. 98-525, §602(c)(2), struck out “; variable housing allowance” in section catchline.

Subsec. (a). Pub. L. 98-525, §602(c)(1), struck out designation for par. (1) preceding “Except as otherwise provided by law” and struck out par. (2) which related to variable housing allowances. See section 403a of this title.

Subsec. (j)(2). Pub. L. 98-525, §604(a), inserted reference to training missions.

1983—Subsec. (a)(2)(A), (D). Pub. L. 98-94 substituted “Except as provided in subparagraph (D) of this paragraph, a member” for “A member” at beginning of subpar. (A), and added subpar. (D).

1981—Subsec. (b). Pub. L. 97-22 substituted “pay grade E-6” for “pay grade F-6”.

1980—Pub. L. 96-343, §4(a)(2), substituted “for quarters; variable housing allowance” for “for quarters” in section catchline.

Subsec. (a). Pub. L. 96-343, §4(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 96-579, §6(a)(1), (2), substituted in second sentence “subject to the provisions of subsection (j)” for “except as provided by regulations prescribed under subsection (j)”, “member” for “commissioned officer”, and “F-6” for “C-3”. Because “C-3” did not appear in this subsection, “F-6” was substituted for “O-3” as the probable intent of Congress.

Subsec. (c). Pub. L. 96-579, §6(b), reenacted existing text in provisions designated as pars. (1) and (3), and substituted par. (2) respecting nonentitlement to basic allowance for quarters when on sea duty for member of a uniformed service in pay grade below E-7 or above E-6 for prior nonentitlement provision for such member when on sea duty.

Subsec. (e). Pub. L. 96-513, §516(10)(A), substituted “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration”.

Subsec. (j). Pub. L. 96-579, §6(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 96-513, §516(10)(B), substituted “terms” for “words”.

Subsec. (k). Pub. L. 96-579, §7, added subsec. (k).

1974—Subsec. (a). Pub. L. 93-419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of basic allowance for quarters for members of uniformed services.

1973—Subsec. (a). Pub. L. 93-64, §105(1), (2), substituted in table provisions reading:

“E-4	\$81.60	\$121.50
E-3	72.30	105.00
E-2	63.90	105.00
E-1	60.00	105.00”
for former provisions reading:		
“E-4 (over 4 years’ service)	81.60	121.50
E-4 (4 years’ or less service)	45.00	45.00

E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00”

and struck out “A member in pay grade E-4 (less than four years’ service), E-3, E-2, or E-1 is considered at all times to be without dependents.”.

Subsec. (b). Pub. L. 93-64, §105(3), in second sentence substituted reference to subsection “(j)” for “(g)”.

Subsecs. (g) to (j). Pub. L. 93-64, §105(4), (5), added subsecs. (g) to (i) and redesignated former subsec. (g) as (j).

1971—Subsec. (a). Pub. L. 92-129 increased quarters allowances as shown in table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10	\$160.20	\$201.00
O-9	160.20	201.00
O-8	160.20	201.00
O-7	160.20	201.00
O-6	140.10	170.10
O-5	130.20	157.50
O-4	120.00	145.05
O-3	105.00	130.05
O-2	95.10	120.00
O-1	85.20	110.10
W-4	120.00	145.05
W-3	105.00	130.05
W-2	95.10	120.00
W-1	85.20	110.10
E-9	85.20	120.00
E-8	85.20	120.00
E-7	75.00	114.90
E-6	70.20	110.10
E-5	70.20	105.00
E-4 (over 4 years’ service)	70.20	105.00
E-4 (4 years’ or less service)	45.00	45.00
E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00”

1967—Subsec. (f). Pub. L. 90-207 substituted provisions authorizing the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is in pay grade E-4 (four or more years’ service) or above for the period he is in a travel or leave status between permanent duty stations for provisions which precluded the payment of a basic allowance for quarters to a member of a uniformed service without dependents while in a permanent change of station status.

1966—Subsec. (a). Pub. L. 89-718 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10	\$171.00	\$136.80
O-9	171.00	136.80
O-8	171.00	136.80
O-7	171.00	136.80
O-6	136.80	119.70
O-5	136.80	102.60
O-4	119.70	94.20
O-3	102.60	85.50
O-2	94.20	77.10
O-1	85.50	68.40
W-4	119.70	94.20
W-3	102.60	85.50
W-2	94.20	77.10
W-1	85.50	68.40
E-9	67.50	45.00
E-8	67.50	45.00
E-7	67.50	45.00
E-6	67.50	45.00
E-5	67.50	45.00
E-4 (7 or more years’ service creditable under section 205)	67.50	45.00
E-4 (less than 7 years’ service creditable under section 205)	45.00	45.00
E-3	45.00	45.00
E-2	45.00	45.00
E-1	45.00	45.00”

Subsec. (e). Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”.

1963—Subsec. (b). Pub. L. 88-132 authorized election by certain officers without dependents not to occupy government quarters.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 604(c) of Pub. L. 103-337 provided that: “The amendments made by this section [amending this section] shall take effect as of October 1, 1993.”

EFFECTIVE DATE OF 1991 AMENDMENT

Section 604(c) of Pub. L. 102-190 provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect six months after the date of the enactment of this Act [Dec. 5, 1991].”

Section 632(b) of Pub. L. 102-190 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to calls or orders of members of the reserve components of the Armed Forces to active duty on or after that date.”

EFFECTIVE DATE OF 1985 AMENDMENTS

Section 2 of Pub. L. 99-227 provided that: “The amendments made by section 1 of this Act [amending this section] shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.”

Section 604(c) of Pub. L. 99-145 provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect on October 1, 1985.”

Section 605(b) of Pub. L. 99-145 provided that:

“(1) The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall take effect on October 1, 1985.

“(2) The amendment made by paragraph (3) of subsection (a) [amending this section] shall take effect on January 1, 1986.”

Amendment by section 809(b) of Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 602(c) of Pub. L. 98-525 effective Jan. 1, 1985, with exceptions, see section 602(f) of Pub. L. 98-525, as amended, set out as an Effective Date note under section 403a of this title.

Section 604(b) of Pub. L. 98-525 provided that: “The amendment made by subsection (a) [amending this section] shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984.”

EFFECTIVE DATE OF 1983 AMENDMENT

Section 907(b) of Pub. L. 98-94 provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to members called or ordered to active duty after September 30, 1983.”

EFFECTIVE DATE OF 1981 AMENDMENT

Section 11(b)(2) of Pub. L. 97-22 provided that the amendment made by that section is effective Oct. 1, 1980.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 6(d) of Pub. L. 96-579 provided that: “The amendments made by this section [amending this section] shall only apply to payment of basic allowance for quarters for months after September 1980.”

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

Section 4(b) of Pub. L. 96-343 provided that: “Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-129 effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of this title.

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

EXCEPTION TO LIMITATION ON AMOUNT OF BASIC ALLOWANCE FOR QUARTERS FOR MEMBERS RECEIVING ALLOWANCE DUE TO PAYMENT OF CHILD SUPPORT

Section 602(b) of Pub. L. 102-190 provided that: “Subsection (m) of section 403 of title 37, United States Code (as added by subsection (a)), shall not apply with respect to a member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who, on the day before the date of the enactment of this Act [Dec. 5, 1991], was entitled to receive a basic allowance for quarters solely by reason of the member's payment of child support. The exception provided by this subsection shall expire with respect to a member described in the preceding sentence on the date on which the member becomes entitled to receive a basic allowance for quarters at the with-dependents rate for a reason other than, or in addition to, the member's payment of child support.”

ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Section 310A of Pub. L. 102-25 provided that:

“(a) IN GENERAL.—A member of a reserve component of the uniformed services without dependents who is called or ordered to active duty in connection with Operation Desert Storm shall be entitled to a basic allowance for quarters under section 403 of title 37, United States Code, if, because of the call or order, the member is unable to continue to occupy a residence—

“(1) which is maintained as the primary residence of the member at the time of the call or order; and

“(2) which is owned by the member or for which the member is responsible for rental payments.

“(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

INCREASE IN BASIC ALLOWANCE FOR QUARTERS
EFFECTIVE JANUARY 1, 1989

Pub. L. 100-456, div. A, title VI, § 601(c), Sept. 29, 1988, 102 Stat. 1976, provided that:

“(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 7 percent effective on January 1, 1989.

“(2) The President may allocate the increase in the rates of basic allowance for quarters provided in paragraph (1) among pay grades and dependency categories so that the resulting rates of basic allowance for quarters, expressed in the case of each such rate as a percentage determined under paragraph (3), are as nearly as practicable the same.

“(3) The percentage of the rate of basic allowance for quarters for any pay grade and dependency status to be applied for the purpose of paragraph (2) is the percentage that results from dividing such rate by the national median cost of housing (as determined by the Secretary of Defense) for members of that pay grade and dependency status.

“(4) An allocation under paragraph (2) may not reduce the rate of basic allowance for quarters for members in any pay grade and dependency status below the rate in effect with respect to such members on December 31, 1988.

“(5) The Secretary of Defense may establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.”

INCREASE IN BASIC ALLOWANCE FOR QUARTERS
EFFECTIVE JANUARY 1, 1988

The basic allowance for quarters for members of the uniformed services increased by 2 percent effective Jan. 1, 1988, see section 601(b) of Pub. L. 100-180, as amended, set out as a note under section 1009 of this title.

MINIMUM RATE OF QUARTERS ALLOWANCE SET AT RATE
AS OF DECEMBER 31, 1984

Pub. L. 99-190, § 101(b) [title VIII, § 8088], Dec. 19, 1985, 99 Stat. 1185, 1216, provided that: “During the current fiscal year, effective January 1, 1985, the rate of the basic allowance for quarters authorized by section 403(a) of title 37, United States Code, which is payable to a member of the uniformed services who was entitled to that allowance on December 31, 1984, shall not be less than the rate of the basic allowance for quarters that was in effect for that member on December 31, 1984 (unless the member holds a lower grade than he held on that date or has had a change in dependent status from a ‘with dependents’ status to a ‘without dependents’ status).”

BASIC ALLOWANCE FOR QUARTERS AND VARIABLE
HOUSING ALLOWANCE

Section 602(a) of Pub. L. 98-525, as amended by Pub. L. 99-661, div. A, title XIII, § 1341(a), Nov. 14, 1986, 100 Stat. 3990, provided that:

“(1) Effective on January 1, 1985, the rates of the basic allowance for quarters authorized by section 403(a)(1) of title 37, United States Code, are as follows:

“Pay Grade	Without Dependents		With Dependents
	Full Rate	Partial Rate ¹	
Commissioned officers:			
O-10	\$537.30	\$50.70	\$660.90
O-9	537.30	50.70	660.90
O-8	537.30	50.70	660.90
O-7	537.30	50.70	660.90

“Pay Grade	Without Dependents		With Dependents
	Full Rate	Partial Rate ¹	
O-6	493.20	39.60	599.40
O-5	465.30	33.00	552.30
O-4	426.60	26.70	504.90
O-3	345.30	22.20	420.90
O-2	278.10	17.70	360.90
O-1	238.50	13.20	323.70
Warrant officers:			
W-4	391.20	25.20	453.90
W-3	330.30	20.70	405.90
W-2	297.00	15.90	379.50
W-1	251.40	13.80	330.90
Enlisted members:			
E-9	315.30	18.60	429.90
E-8	292.20	15.30	400.50
E-7	249.30	12.00	372.60
E-6	221.40	9.90	337.80
E-5	204.90	8.70	300.30
E-4	177.60	8.10	259.50
E-3	172.50	7.80	238.50
E-2	146.40	7.20	238.50
E-1	133.50	6.90	238.50

¹ Payable to a member without dependents who under section 403(b) or (c) of title 37, United States Code, is not entitled to receive a basic allowance for quarters.”

“(2)(A) During the period described in subparagraph (B), the rate of the basic allowance for quarters authorized by section 403(a)(1) of title 37, United States Code, which is payable to a member of the uniformed services who is entitled to that allowance during such period and who was entitled to that allowance on December 31, 1984, shall not be less than the rate of the basic allowance for quarters that was in effect for that member on December 31, 1984 (unless the member holds a lower grade than he held on that date or has had a change in dependent status from a ‘with dependents’ status to a ‘without dependents’ status).

“(B) The period referred to in subparagraph (A) is the period beginning on January 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increases the rates for such allowance to a level not less than 7 percent greater than the rates in effect on January 1, 1985.”

[Section 1341(b) of Pub. L. 99-661 provided that: “The amendments made by subsection (a) [amending note above] shall take effect on October 1, 1986, or the date of the enactment of this Act [Nov. 14, 1986], whichever is later.”]

FREEZE OF VARIABLE HOUSING ALLOWANCE AT FISCAL
YEAR 1983 RATES

Section 906 of Pub. L. 98-94, as amended by Pub. L. 98-525, title VI, § 602(b)(2), Oct. 19, 1984, 98 Stat. 2534, provided that: “During the period beginning on October 1, 1983, and ending on January 1, 1985, the rates at which the variable housing allowance under section 403(a)(2) of title 37, United States Code, is paid shall be the same as the rates in effect on September 30, 1983.”

VARIABLE HOUSING ALLOWANCE DURING FISCAL YEAR
1981; AMOUNT; REGULATIONS

Section 4(c) of Pub. L. 96-343 provided that:

“(1) During fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under section 403 of title 37, United States Code, may be paid a variable housing allowance under this subsection whenever assigned to duty in an area of the United States (other than Alaska and Hawaii) which is a high housing cost area with respect to such member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States may be paid a variable housing allowance under this subsection while serving such tour of duty for any period during which the member’s dependents reside in an area of the United States which would qualify the member to receive a variable housing allowance under this subsection if assigned to duty in that area.

“(2) The monthly amount of a variable housing allowance under this subsection for any member may not exceed the difference between (A) the average monthly

cost of housing in that area for members of the uniformed services serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)), and (B) 115 percent of the amount of the basic allowance for quarters to which that member is entitled.

“(3) For the purposes of this subsection, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the average monthly cost of housing in that area for members serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)) exceeds 115 percent of the amount of the basic allowance for quarters of that member.

“(4) Regulations shall be prescribed for the administration of this subsection in the same manner that regulations are prescribed under subsection (j) of section 403 of title 37, United States Code, for the administration of such section.”

PAY CONTINUATION

Amendment of this section by Pub. L. 92-129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, § 302(f), 63 Stat. 812, as amended by Pub. L. 87-531, § 1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89-718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89-718.

ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, § 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of \$51.30 per month, was repealed by Pub. L. 87-531, § 2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87-649, to be considered as superseding Pub. L. 87-649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87-649, set out as a note preceding section 101 of this title.

AUTHORITY OF SECRETARIES WITH RESPECT TO PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87-531, § 5, July 10, 1962, 76 Stat. 153, provided that: “The Secretaries of the departments concerned shall have the same authority with respect to payments of quarters allowances to enlisted members of the uniformed services to pay grades E-4 (over 4 years’ service) through E-9 that they have with respect to enlisted members of the uniformed services in pay grades E-1, E-2, E-3, and E-4 (4 years’ or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 (50 App. U.S.C. 2210, 2211).”

REGULATIONS RELATING TO QUARTERS ALLOWANCE

Regulations relating to basic allowance for quarters, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters,

was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 420, 1003, 1009 of this title; title 32 section 107; title 50 App. section 454.

§ 403a. Variable housing allowance

(a)(1) Except as provided in subsection (b), a member of a uniformed service entitled to basic allowance for quarters is entitled to a variable housing allowance under this section whenever assigned to duty in an area of the United States which is a high housing cost area with respect to that member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States is entitled to a variable housing allowance while serving that tour of duty for any period during which the member’s dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance. The allowance authorized by this section may be paid in advance.

(2) In the case of a member with dependents—

(A) who is assigned to duty inside the United States the location or the circumstances of which make it necessary that his dependents reside at another location; and

(B) whose dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance at a rate other than the rate to which the member is entitled (if at all) in the area of his duty assignment,

the member may be paid a variable housing allowance as if he were assigned to duty in the area in which his dependents reside if the Secretary concerned determines (under regulations prescribed under subsection (e)) that it would be inequitable to base the member’s entitlement to, and amount of, variable housing allowance on the area to which the member is assigned.

(3) In the case of a member with dependents—

(A) who is assigned to an unaccompanied tour of duty in Alaska or Hawaii; and

(B) who would, if his duty station were outside the United States, be entitled to a family separation allowance under section 427(a) of this title,

the member may be paid a variable housing allowance at the rate applicable to a member without dependents serving in the same grade and at the same location. Payment of a variable housing allowance under this paragraph shall be in addition to any allowance or per diem to which the member otherwise may be entitled under this title.

(4) In the case of a member with dependents—

(A) who is assigned to duty inside the United States;

(B) who is authorized to receive the basic allowance for quarters at the rate established